

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

AUGUSTIN MUGABO,

Plaintiff,

v.

BUFFALO POLICE,

Defendant.

DECISION AND ORDER
20-CV-409

Plaintiff Augustin Mugabo filed this *pro se* action alleging a civil rights violations, and this Court referred to Magistrate Judge Jeremiah J. McCarthy pursuant to 28 U.S.C. § 636(b)(1) to handle pretrial proceedings.

On February 6, 2024, Magistrate Judge McCarthy issued a Report and Recommendation (Dkt. No. 98) recommending that this Court: (1) grant defendant's motion to dismiss the First Claim set forth in Plaintiff's Complaint, with prejudice (Dkt. No. 91), and to dismiss the Second Claim set forth in Plaintiff's Complaint, without prejudice to a future motion for leave to amend demonstrating good cause; and (2) deny plaintiff's motion for clarification (Dkt. No. 95 and 97) as moot.

On February 24, 2024, Plaintiff filed objections to the R&R (Dkt. Nos. 99 and 100). Defendant Buffalo Police has not filed a response in opposition to Plaintiff's objections. The matter was deemed submitted on the papers.

Local Civil Rule 72(b) provides that written objections to an R&R “shall specifically identify the portions of the proposed findings and recommendations to which objection is made and the basis for each objection, and shall be supported by legal authority.” The Court reviews the findings and conclusions of the R&R pursuant to 28 U.S.C. § 636(b)(1), which provides that to the extent that a party makes a timely and specific objection to a Magistrate Judge’s R&R, the standard of review is *de novo*.

Upon due consideration of the arguments, pursuant to 28 U.S.C. § 636(b)(1), and for the reasons set forth in the Magistrate Judge McCarthy’s R&R (Dkt. No. 98), and this Decision and Order, this Court adopts fully the reasoning and conclusions set forth in Magistrate Judge McCarthy’s R&R, and it is hereby

ORDERED that the Defendant Buffalo Police’s motion to dismiss (Dkt. No. 91) the First Claim set forth in Plaintiff’s Complaint, is hereby **GRANTED**, and such claim is hereby **DISMISSED**, with prejudice; and it is further

ORDERED that the Defendant Buffalo Police’s motion to dismiss (Dkt. No. 91) the Second Claim set forth in Plaintiff’s Complaint, is hereby **GRANTED IN PART**, and the Second Claim is hereby **DISMISSED**, without prejudice to Plaintiff filing, within 30 days from the date of this Decision and Order, a motion for leave to amend demonstrating good cause; and it is further

ORDERED, that the Plaintiff's motion for clarification (Dkt. Nos. 95 and 97) is
DENIED AS MOOT.

IT IS SO ORDERED.

s/Richard J. Arcara
HONORABLE RICHARD J. ARCARA
UNITED STATES DISTRICT COURT

Dated: March 25, 2024
Buffalo, New York